

CALIFORNIA STATE PERSONNEL BOARD MEETING
801 Capitol Mall
Sacramento, California

Public Session Location - Room 150
Closed Session Location - Room 141

FULL BOARD MEETING MINUTES

FEBRUARY 9, 2000

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

Ron Alvarado, Vice President
Richard Carpenter, Member
William Elkins, Member

2. HEARING - LOCAL AGENCIES DEFINED

This rulemaking action clarifies the interpretation of "within the local agency" in California Code of Regulations, Title 2, Section 17528(d) as expressed in Karen Patchin (1998) SPB Dec. No. 98-06.

ACTION: Adopted staff recommendation 2/9/00.

VOTE: Alvarado, Carpenter, Elkins - Aye.

3. HEARING - EQUAL OPPORTUNITY GOALS FOR MINORITIES AND WOMEN

This rulemaking action provides departments with procedural guidance in establishing annual employment goals for minorities and women.

Persons Participating:

Steve Unger, Staff, California State Personnel Board
Dorothy Egel, Staff Counsel, California State Personnel Board
Ted Edwards, Staff, California State Personnel Board
Sylvia Mejia, EEO Analyst, Department of Justice
Alan Clayton, Director of EEO, Los Angeles County Chicano Employee Association

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Robin Corralejo, Chair, California Civil Rights Officers Council,
CALPERS

Jose Perez, Latino Journal of Sacramento Hispanic Chamber
Rosemaire Duffy, Senior Labor Relations, Bargaining Unit 15,
California State Employees Association (CSEA)

Dale Avila, Department Representative, Employment Development
Department

Alex Garza, CSEA, Human Rights/AA Committee

Nadie L. Savage, Vice President/Chief Steward District Labor
Council 789, CSEA,

Fred Foote, Representative for CCMWPD

Wendell S. Johnson, Manager/Lead Investigator, Department of Water
Resources

ACTION: Submitted

4. ORAL ARGUMENT

Oral argument in the matter of Deanna Davies, Case No.
99-0073. Appeal from determination of back pay. State Board
of Equalization.

Persons Participating:

Daniel S. Connolly, Assistant Chief Counsel, Legal Services,
California State Employees Association, representing appellant
Blanca Breeze, Senior Tax Counsel, representing Board of
Equalization

ACTION: Submitted

5. TECHNICAL TRAINING PROGRAM'S SELECTION ANALYST CERTIFICATES
PRESENTATION

ACTION: Awards Presented

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6. ORAL ARGUMENT

Oral argument in the matter of James H. Cooper, Case No.
99-1090. Appeal from dismissal. Department of Corrections.

Persons Participating:

Janusz Porembski, Attorney at Law, representing appellant
Cynthia Rodriguez, Senior Staff Counsel, representing Department of
Corrections

ACTION: Submitted

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7. ORAL ARGUMENT

Oral argument in the matter of Berlinda A. Green, Case No. 99-1067. Appeal from dismissal. Department of Motor Vehicle.

Persons Participating:

James DeAguilera, Attorney at Law, representing appellant
Kaye Krumenacker, Senior Staff Counsel, representing Department of Motor Vehicles

ACTION: Submitted

8. ORAL ARGUMENT

Oral argument in the matter of Bryan W. Duncan, Case No. 99-1315. Appeal from 10 working days suspension. Department of California Highway Patrol.

ACTION: To be continued at a later date

9. HEARING - APPEAL OF THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD (CIWMB) FROM THE EXECUTIVE OFFICER'S SEPTEMBER 23, 1999 DISAPPROVAL OF CIWMB'S CONTRACT WITH PRICE WATERHOUSE COOPERS IN RESPONSE TO THE REQUEST FOR REVIEW UNDER GOVERNMENT CODE 19130 SUBMITTED BY THE CALIFORNIA STATE EMPLOYEES ASSOCIATION

Persons Participating:

Deborah Borzelleri, Staff Counsel, California Integrated Waste Management Board
Harry J. Gibbons, Attorney at Law, California State Employees Association (CSEA)

ACTION: Submitted

10. HEARING - APPEAL OF THE OFFICE OF CRIMINAL JUSTICE PLANNING (OCJP) FROM THE EXECUTIVE OFFICER'S OCTOBER 8, 1999 DISAPPROVAL OF OCJP'S CONTRACT NOS. C96-29, C98-47, C98-48, AND C98-51 IN RESPONSE TO THE REQUEST FOR REVIEW UNDER GOVERNMENT CODE 19130 SUBMITTED BY THE CALIFORNIA STATE EMPLOYEES ASSOCIATION

ACTION: Withdrawn

11. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn

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The Board was advised of the following:

- A. State Personnel Board member Sean Harrigan's confirmation hearing is set in the Senate Rules Committee for March 1, 2000 at 9:30 a.m., room 113.
- B. State Personnel Board is planning on implementing a new version of the Staff Service Analyst examination. The new test will permit application screening and test scheduling on-line. The examination will be a written test administered at specific test sites.
- C. Cooperative Personnel Services (CPS) received a formal opinion from the Attorney General indicating the agency is precluded from administering state licensing examinations. CPS is seeking legislation to enable administering these tests.
- D. The State Personnel Board Administrative Law Judges will be participating in a training program February 22-24, 2000.
- E. State Personnel Board staff continues to work with the Governor's Task Force on Diversity. The task force is completing their final draft for submission to the Governor in April 2000.

12. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel reported on the following:

Legal News

- A. Ruiz v. CDC (2000 D.A.R.) - Court of Appeal, Fifth Appellate District, issued a decision holding that an employee need not exhaust his administrative remedies before the State Personnel Board before filing a suit for discrimination under the Fair Employment and Housing Act.
- B. Thomas v. Department of Corrections (2000 D.A.R. 335) Court of Appeal, Fourth Appellate District has issued an opinion provides some guidance on the issue of what constitutes an adverse employment action for purposes of determining whether a complainant has stated a claim of discrimination or retaliation complaints.

Litigation

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Court of Appeal:

- A. SPB v. DPA - SPB is filing its appellate brief today on the issue of SPB's standing to challenge the constitutionality of the Unit 8 MOU.
- B. Cagle Moore v. SPB, Department of Social Services (SPB Dec. No. 96-12) - This case is scheduled for oral argument before the Court of Appeal, Third Appellate District, on February 18 at 9:30 a.m.
- C. Garcia v. SPB, Department of Youth Authority (SPB Dec. No. 98-03) - This case has been scheduled for oral argument before the Court of Appeal, Fourth Appellate District on March 16, 2000 at 1:30 p.m. This case concerns a parole officer with the Department of Youth Authority who was dismissed for smoking marijuana off duty. The Board upheld the termination, but the trial court reversed, finding no nexus. The Department appealed. The SPB will be there to defend its position that the trial court properly declined to award attorney's fees against SPB.

Superior Court:

- A. Mendoza v. SPB, Department of Corrections - This case was remanded to SPB to reconsider its decision in light of post termination rehabilitation. The parties were asked to file briefs; the case is in abeyance pending settlement discussions.
- B. Board of Equalization v. State Personnel Board (Bud Jones) - Superior Court granted a writ reversing the Board's decision that BOE was barred by the 3-year statute of limitations and doctrine of laches from taking adverse action against an auditor for alleged fraudulent violations of audit management procedures.
- C. ACSA v. DPA, et al. - The Superior Court has signed a judgement and writ in this case, ordering defendants to refrain from implementing the Unit 8 MOU grievance and arbitration procedures unless and until provisions are made in the procedures for the State Personnel Board's ultimate and meaningful review of civil service disciplinary actions. The Writ has a return date of February 29, 2000 for defendants to set forth the actions they are taking to comply with the writ.
- D. Terhune v. Vaughn (Villanueva) - Department of Corrections has filed a petition for writ of administrative mandate challenging this Board decision

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involving a statement perceived as a threat by the Department.

Other:

- A. DPA's appeal of the executive officer's invalidation of the contract between DPA and private arbitrator to implement the disciplinary appeal provisions of the Unit 8 MOU is scheduled for hearing before the Board in March, 2000.
- B. Karen Brandt continues to attend the PERS Disability Task Force meetings and meetings to discuss implementation of the disability provisions of SB 1073.

13. REPORT ON LEGISLATION- Judy Balmain

The Board was advised of the following:

- A. The Governor's Legislative Office has approved the Board's legislative proposals.
- B. Senator Escutia, who is carrying State Personnel Board's bilingual proposal has proposed additional amendments to the bill. Staff will review and advise the Board of the impact of the amendments.
- C. AB 688 (Steinberg) - The contracting reform bill is in the Senate and requires an appropriation in order to be implemented.
- D. The last day for introduction of legislation is February 25, 2000.

BOARD ACTIONS

14. STATE PERSONNEL BOARD SUMMARY MINUTES OF JANUARY 19, 2000

ACTION: Adopted on February 9, 2000
VOTE: Alvarado, Carpenter, Elkins - Aye.

15. ACTION ON SUBMITTED ITEMS

ACTION: (See page17)

16. ADMINISTRATIVE LAW JUDGE CASES

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On February 9, 2000, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Alvarado, Carpenter, Elkins - Aye.

COURT REMAND

JESSE BROWN, CASE NO. 98-0384

Appeal from constructive medical termination

Department of General Services

ACTION: Court remand set aside and vacated SPB Precedential Decision No. 99-02 dated 3/9/99 (98-0384); parties may submit written argument on or before 3/17/00 regarding back salary and/or benefits.

VOTE: Alvarado, Carpenter, Elkins - Aye.

CHIEF COUNSEL RESOLUTIONS

TRENA R. LAWSON, CASE NO. 99-0002

Appeal from dismissal

Department of Consumer Affairs

ACTION: On February 9, 2000, Board approved stipulated settlement

ORLANDO HINOJOS, CASE NO. 97-4424

Appeal from dismissal

Department of Transportation

ACTION: On February 9, 2000, Board approved stipulated settlement

PROPOSED DECISIONS

RUSTY IVERSON, CASE NO. 99-3640

Appeal from 5 percent reduction in Salary for 6 months

Department of Corrections

ACTION: Administrative Law Judge's proposed decision rejected by Board. Board to decide case itself

TUAN H. NGUYEN, CASE NO. 99-3621

Appeal from termination with fault

Department of Mental Health

ACTION: Appeal Dismissed

GEORGE LATHROP, CASE NO. 99-3898

Appeal from dismissal

California Conservation Corps

ACTION: Dismissal Modified to 10 Working Days Suspension

SARA CERVANTES, CASE NO. 99-4003

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Appeal from termination without fault
Department of Forestry and Fire Protection
ACTION: Appeal Dismissed

NEETELFER HAWKINS, CASE NO. 99-1570
Appeal from 10 percent reduction in Salary for 12 months
Department of Motor Vehicles
ACTION: Reduction in Salary Revoked

MALCOLM D. McALISTER, CASE NO. 99-3964
Appeal from Official Reprimand
Department of Corrections
ACTION: Official Reprimand Sustained

EDWARD JOHN POPKE, CASE NO. 99-4103
Appeal from 30 days suspension
Department of Corrections
ACTION: Suspension Revoked

ROBERT REED, CASE NO. 99-3530
Appeal from demotion
Department of Corrections
ACTION: Administrative Law Judge's proposed decision
rejected by Board. Board to decide case itself

PAUL VICARIO, CASE NO. 99-4341
Appeal from 1-step reduction in Salary for 12 months
Department of Corrections
ACTION: Reduction in Salary Sustained

AARON TUTER, CASE NO. 99-3383
Appeal from dismissal
Department of Corrections
ACTION: Administrative Law Judge's proposed decision
rejected by Board. Board to decide case itself

ESTELLE ROSALES, CASE NO. 99-2794
Appeal from dismissal
Department of Developmental Services
ACTION: Dismissal Modified to 6 Months Suspension

PETITIONS FOR REHEARING

IBRAHIM KEITA, CASE NO. 99-1035
Appeal from dismissal
Department of Departmental Services
ACTION: Petition for rehearing filed by Respondent denied

ETHEL WARREN, CASE NO. 98-2130

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Appeal from dismissal
Department of Corrections

ACTION: Petition for rehearing filed by Appellant denied

17. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1
EXTENSION.

ACTION: (See pages 18-20)

18. MISCELLANEOUS APPEALS DIVISION CASES
(Discrimination Complaints, Withholds, Voided Appointments,
Rule 211 Appeals, Petitions for Rehearing)
On February 9, 2000, the Board adopted the following decisions
presented by Linda Brooks, Assistant Executive Officer,
California State Personnel Board.
VOTE: Alvarado, Carpenter, Elkins - Aye.

PETITIONS FOR REHEARING

- A. JAMES C. ALLEN, Case No. 99-4902
Classification: Correctional Lieutenant
ACTION: GRANTED
- B. MARVIN L. DILLARD, Case No. 99-4905
Classification: Correctional Officer
ACTION: DENIED
- C. JAMIE B. SWIDECKI, Case No. 99-4628
Classification: Correctional Officer
ACTION: DENIED

WITHHOLD CASES

- D. ERNEST VASQUEZ, Case No. 99-0940
Classification: Caltrans Landscape Maintenance Worker
ACTION: DENIED
- E. JOSEPH RODRIGUEZ, Case No. 99-0278
Classification: Correctional Officer
ACTION: DENIED
- F. MOLLY R. PELAYO-ZAMORA, Case No. 99-1234
Classification: Hospital Peace Officer 1
ACTION: GRANTED

- G. KEVIN WHITE, Case No. 99-2979

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Classification: Youth Correctional Officer
ACTION: GRANTED

- H. LAWRENCE C. BAKER, Case No. 99-3575
Classification: Cadet, California Highway Patrol
ACTION: DENIED
- I. REUBEN R. CASTANEDA, Case No. 99-3545
Classification: Correctional Officer
ACTION: DENIED
- J. STACEY H. CORNETT, Case No. 99-2909
Classification: Correctional Officer
ACTION: DENIED
- K. TOMMIE J. EDWARDS, Case No. 99-2947
Classification: Correctional Officer
ACTION: DENIED
- L. MANUEL S. FLORES, Case No. 99-2994
Classification: Correctional Officer
ACTION: DENIED
- M. MATTHEW JAY FLYNN, Case No. 99-3368
Classification: Correctional Officer
ACTION: DENIED
- N. TYRONE GILLIAM, Case No. 99-0149
Classification: Hospital Peace Officer I
ACTION: DENIED
- O. LEOBARDO GONZALEZ, Case No. 99-3367
Classification: Correctional Officer
ACTION: DENIED
- P. MICHAEL GUNDERSON, Case No. 99-4165
Classification: Correctional Officer
ACTION: DENIED
- Q. DANIEL W. HENRY, Case No. 99-3518
Classification: Correctional Officer
ACTION: DENIED
- R. BRIAN T. HUGHES, Case No. 99-2949
Classification: Correctional Officer
ACTION: DENIED
- S. TONY L. JACKSON, Case No. 99-3756
Classification: Correctional Officer
ACTION: DENIED
- T. TROY D. JUVE, Case No. 99-1133

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Classification: Cadet, California Highway Patrol
ACTION: DENIED

U. FRANCINE MEAD, Case No. 99-3456
Classification: Correctional Officer
ACTION: DENIED

V. JESSE C. SANFORD, Case No. 99-3408
Classification: Correctional Officer
ACTION: DENIED

W. CRAIG WALLACE, Case No. 99-2975
Classification: Cadet, California Highway Patrol
ACTION: DENIED

DISMISSAL CASES

X. SAMUEL K. CHUNG, Case No. 99-4660
Classification: Assoc. Info. Sys. Analyst, Spec.
ACTION: DISMISSED - Department withdrew action.

Y. BRYAN J. KINGSTON, Case No. 99-5106
Classification: Special Agent, CDC
ACTION: DISMISSED - Department withdrew action.

Z. JOHNNY RIVAS, Case No. 99-4371
Classification: Correctional Officer
ACTION: DISMISSED - No timely response to SPB request for information.

AA. EDEN WONG, Case No. 99-4741
Classification: Youth Correctional Officer
ACTION: DISMISSED - No timely response to SPB request for information.

19. MEDICAL APPEALS

On February 9, 2000, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Alvarado, Carpenter, Elkins - Aye.

A. JOHN BARICZA, Case No. 99-2844
Classification: Caltrans Highway Maintenance Worker
ACTION: DENIED

B. RALPH BEAS, Case No. 99-0984
Classification: Correctional Officer
ACTION: DENIED

C. ROBERT A. DANFORD, Case No. 99-0944

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Classification: Youth Correctional Counselor
ACTION: DENIED

- D. NILES M. EMERSON, Case No. 99-0956
Classification: Correctional Officer
ACTION: DENIED
- E. ED T. HASKELL, Case No. 99-0723
Classification: Parole Agent I/Adult
ACTION: DENIED
- F. EVA MALONE, Case No. 99-1768
Classification: Registered Nurse
ACTION: DENIED
- G. RONALD SULIER, Case No. 99-1821
Classification: Correctional Officer
ACTION: DENIED
- H. MICHAEL BROWN, Case No. 99-5338
Classification: Youth Correctional Counselor
ACTION: GRANTED
- I. TERESA EDMONDSON, Case No. 99-5339
Classification: Fire Captain
ACTION: GRANTED
- J. JAVIER GUTIERREZ, Case No. 99-5134
Classification: Youth Correctional Counselor
ACTION: GRANTED
- K. RICHARD LANGSDALE, Case No. 99-5100
Classification: Cadet, California Highway Patrol
ACTION: GRANTED
- L. TODD MAXSON, Case No. 99-5164
Classification: Cadet, California Highway Patrol
ACTION: GRANTED
- M. ALTON RANDALL, Case, No. 99-5335
Classification: Cadet, California Highway Patrol
ACTION: GRANTED
- N. BYRON SELLS, Case No. 99-5336
Classification: Youth Correctional Officer
ACTION: GRANTED
- O. YVONNE VIVAS, Case No. 99-5133
Classification: Correctional Officer
ACTION: GRANTED
- P. CURTIS WHITE, Case No. 99-5337

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Classification: Youth Correctional Counselor
ACTION: GRANTED

- Q. STEPHANIE WILSON, Case No. 99-4626
Classification: Cadet, California Highway Patrol
ACTION: GRANTED
- R. ROTHELL WILLIAMS, Case No. 99-0537
Classification: Youth Correctional Officer
ACTION: GRANTED

DISMISSAL CASE

- S. ROBIE CARTER, Case No. 99-4087
Classification: Youth Correctional Officer
ACTION: DISMISSED - Department withdrew appeal
 - T. ROBERT F. DWYER, Case No. 99-4745
Classification: Correctional Officer
ACTION: DISMISSED - Appellant did not confirm appearance for scheduled hearing.
 - U. PAUL GONZALES, Case No. 99-0250
Classification: Youth Counselor
ACTION: DISMISSED - Appellant withdrew appeal
 - V. DAYANIRA REYES, Case No. 99-5137
Classification: Youth Correctional Officer
ACTION: DISMISSED - Appellant did not confirm appearance for scheduled hearing.
20. MERIT ISSUE COMPLAINT APPEALS
On February 9, 2000, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.
VOTE: Alvarado, Carpenter, Elkins - Aye.
- A. PECG, CEC, EOB, Case No. 99-1879
Classification: Senior Electrical Engineer
ACTION: DENIED
 - B. JOHN WILLIAMSON, Case No. 99-1735
Classification: Transportation Engineer (Civil)
ACTION: DENIED

21. RULE 212 OUT-OF-CLASS APPEALS

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On February 9, 2000, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Alvarado, Carpenter, Elkins - Aye.

- A. DEVAL PARKINSON, Case No 99-2619
Classification: Manager I, Department of Motor Vehicles
ACTION: DISMISSED

22. REQUEST TO FILE CHARGES CASES

On February 9, 2000, the Board took the following actions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Alvarado, Carpenter, Elkins - Aye.

- A. JEFFREY A. SANTOS, Case No. 97-3094
Classification: Correctional Counselor 1
ACTION: DENIED

23. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

- A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER CONSIDERATION

- (1) CHIEF, FISCAL OPERATIONS
CHIEF, HUMAN RESOURCES AND BUSINESS SERVICES
The Department of Consumer Affairs proposes to allocate the above positions to the CEA category. The Department indicates that both positions will report to the Chief Administrative Officer.

- (2) PROJECT MANAGER, STRATEGIC BUSINESS OPERATIONS
PROJECT MANAGER, FINANCIAL MANAGEMENT,
COMMUNICATIONS, PLANNING AND POLICY
The Franchise Tax Board proposes to allocate the above positions to the CEA category. The Department indicates that both positions will report to the Project Director, California Child Support Automated Systems Project.

- B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW CEA POSITIONS

- (1) ASSISTANT GENERAL COUNSEL FOR ENFORCEMENT
The California Environmental Protection Agency's proposal to allocate the above position to the CEA category has been approved effective December 23, 1999.

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- (2) DEPUTY ADMINISTRATOR, CHULA VISTA
The Department of Veterans Affairs proposal to the CEA category has been approved effective November 29, 1999.
- (3) DEPUTY DIRECTOR, PROGRAM MANAGEMENT DIVISION
The California Children and Families Commission's proposal to allocate the above position to the CEA category has been approved effective December 13, 1999.
- (4) CHIEF DEPUTY DIRECTOR
The California Conservation Corps' proposal to allocate the above position to the CEA category has been approved effective January 10, 2000.
- (5) ASSISTANT PROGRAM BUDGET MANAGER
The Department of Finance's proposal to allocate the above position to the CEA category has been approved effective January 14, 2000.
- (6) ASSISTANT DEPUTY DIRECTOR, CIVIL RIGHTS
The Department of Transportation's proposal to allocate the above position to the CEA category has been approved effective January 14, 2000.

C. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO REFILL
CEA POSITIONS ESTABLISHED BETWEEN 6/30/95 AND 1/1/99

- (1) DEPUTY DIRECTOR, OVERSIGHT AND PROJECT INITIATION
The Department of Information Technology's request to refill the above position has been approved effective December 6, 1999.
- (2) REGIONAL ADVISOR
The Department of Social Services request to refill the above positions has been approved on a limited term basis for the period from December 3, 1999 through December 4, 2000.
- (3) PERSONNEL OFFICER
The Department of Transportation's request to refill the above position has been approved effective December 2, 1999.
- (4) CHIEF, OFFICE OF WOMEN'S HEALTH

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The Department of Health's request to refill the above position has been approved effective December 13, 1999.

- (5) DEPUTY DIRECTOR, PROGRAM PLANNING AND PERFORMANCE
The Department of Social Services' request to refill the above position has been approved effective November 29, 1999
- (6) ASSISTANT EXECUTIVE OFFICER, GROUNDWATER PROGRAMS
The State Water Resources Control Board's request to refill the above position has been approved effective December 23, 1999.

ACTION: Noted

A D J O U R N M E N T

SUBMITTED

1. CHARLES YOUNGLOVE, CASE NO. 97-3901. Appeal from demotion. Department of Insurance. (Oral argument held December 7, 1999.)

ACTION: On February 9, 2000, adopted Board's decision modifying demotion to demotion for 2 years.

VOTE: Alvarado, Carpenter, Elkins - Aye.

2. TERESA DESIDERIO, CASE NO. 99-2020. Appeal from discrimination. Department of Corrections. (Oral argument held December 7, 1999.)

ACTION: On February 9, 2000, adopted Board's decision - Good cause appearing, the request of Teresa Desiderio for continuance of administrative hearing granted ; matter referred to Chief Administrative Law Judge and shall be set for hearing on the merits.*

VOTE: Alvarado, Carpenter, Elkins - Aye.

*Adopted as Precedential Decision # 00-03. [NOTE: Precedential Decisions of the State Personnel Board are published and available by subscription from Continuing Education of the Bar (CEB) in Berkeley. To subscribe, call CEB, toll free, at (800) 924-3924.]

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional forty-five days, the Board hereby publishes its substantial reasons for the need for the forty-five day extension for some of the cases now pending before it for decision.

An additional forty-five days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than 6 months as of the date of the Board meeting.

GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

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I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on February 9, 2000.

WALTER VAUGHN
Executive Officer
California State Personnel Board

VOTE: Alvarado, Carpenter, Elkins - Aye.